

Serial No. 10/021,016
Reply to Office Action of June 1, 2005

REMARKS/ARGUMENTS

Claims 1-16, 18-26, and 29-32 were presented for examination and were pending in this application. In an Official Office Action dated June 1, 2005, claims 1-16, 18-26, and 29-32 were rejected. The Applicants thank the Examiner for examination of the claims pending in this application and address the Examiner's comments below.

Applicants herein amend claims 1, 10, and 21 and no new claims are presently added. These changes are believed not to introduce new matter, and their entry is respectfully requested. The claims have been amended to expedite the prosecution of the application. In making this amendment, Applicants have not and do not narrow the scope of the protection to which the Applicants consider the claimed invention to be entitled and do not concede that the subject matter of such claims were in fact disclosed or taught by the cited prior art. Rather, Applicants reserve the right to pursue such protection at a later point in time and merely seek to pursue protection for the subject matter presented in this submission.

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding rejections and withdraw them.

I. Deficiency in the Original Oath / Declaration

The Applicants thank the Examiner for specifically identifying the deficiency in the Declaration submitted under 37 CFR 1.63. The Applicants acknowledge that the Declaration as submitted apparently contains a minor deficiency in that it states, "We acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, §1.56(a)." The Examiner is correct that the

Serial No. 10/021,016
Reply to Office Action of June 1, 2005

Applicants' declaration of their duty to disclose should more correctly be in accordance with 37 CFR 1.56 instead of 37 CFR 1.56(a). The Applicants regret this oversight and apologize for inconveniencing the Examiner.

The Applicants respectfully submit that this deficiency is minor and is self-evidently cured by the remainder of the Declaration. In the currently signed Declaration, each Applicant declares his citizenship and affirmatively declares his or her belief to be a first and original inventor and acknowledges his duty to disclose information material to the Application's patentability. Certainly as all the inventors have signed the Declaration they acknowledge they are individuals associated with the filing of the application and possess a duty to disclose information material to the patentability of the application as described in section (c). Likewise section (b) arguably acts to limit the duty by excluding cumulative information and therefore the deficiency actually places a broader duty on the Applicants. As the Declaration is signed by the inventors, section (d) arguably does not apply, nor does section (e), as this is not a continuation-in-part application. In light of these remarks, the Applicants respectfully request that the Examiner exercise his authority and waive the deficiency as indicated in section 602.03 of the MPEP.

II. 35 U.S.C. §102 Anticipation Rejection of Claims

Claims 1-16, 18-26, and 29-32 were rejected under 35 U.S.C. §102(b) as being anticipated by Kapczynski et al., "Merisel Technical Deployment," 1999 ("Kapczynski et al."). Applicants respectfully traverse these rejections in light of the following remarks and respectfully request reconsideration.

MPEP §2131 provides:

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in

Serial No. 10/021,016
Reply to Office Action of June 1, 2005

a single prior art reference." *Verdegall Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053(Fed. Cir.1987). "The identical invention must be shown in as complete detail as contained in the claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).

The claims as currently amended recite features lacking in the applied references. For example, independent claim 1 now recites, among other things, "maintaining permanent and session application data persistent across user request boundaries within a single user session." In response to Applicants' remarks of March 16, 2005, the Examiner cites Figure 1 of Kapczynski et al. and states that, "[t]he Figure shows the functional supports to handle a user session including "Internet Explorer", "Netscape Navigator," "WebTV", [and] the objects in the NT server such as COM objects." The Examiner continues by pointing out that "terms such as "Internet Explorer", "Netscape Navigator", and "WebTV", present a computer that includes persistent storage," and "the COM object are known as including Object Persistence." Finally the Examiner relies on a statement in Kapczynski et al. that a "single user session may occur across both servers." Kapczynski et al., page 19.

The Examiner's interpretation of Kapczynski et al. is overly broad and improperly applied. Kapczynski et al. appears to discuss a single user session with respect to the importing of log files. Kapczynski et al. states on page 19 that "[t]he log files from both Web Servers should be imported at the same time for a particular day (or set of days). However, a single user's session may occur across both servers. In this case, the importing process analyzes all files from a particular day as one set of data." Kapczynski et al. page 19. Kapczynski et al. does not disclose "maintaining permanent and session application data

Serial No. 10/021,016
Reply to Office Action of June 1, 2005

persistent across user request boundaries within a single user session" as recited in claim 1. Maintaining permanent and session application data within a single user session is not equivalent to importing log files from a single user session. The Examiner generically applies the terms "single user session" to a scenario that has no application to the Applicants' invention. The Applicants' invention provides an application platform having a set of features and services designed to facilitate the development and use of business applications useable on ANY platform that supports Server-Side Presentation Logic. Kapczynski et al. does not disclose such a platform. Furthermore, the Applicants' invention provides functionality beyond "logging" as suggested by Kapczynski et al. The Applicants' invention provides a generic mechanism that can be used by applications to access data in a coherent way.

The Applicants' invention is platform independent. Kapczynski et al. appears to disclose only a Windows centric platform. This difference is significant. Furthermore, the Applicants' invention provides an interface to plug in different backend repositories and also the abstraction of the data layer. As a result, the commerce software running on top of backend repository is free of considering what the underlying repository is while still functioning properly. Thus, the Applicants' invention increases available options for commerce software applications. The Applicants' invention provides a hierarchical structure for configuration information with the inheritance support from the commerce application platform. The requirements set forth in claim 1 and those that are disclosed in Kapczynski et al. are not equal.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently, in a single prior art reference." MPEP §2131. Kapczynski et al. does not anticipate each and every element as currently set forth in claim 1 either expressly or inherently. Accordingly, the Applicants respectfully request the withdrawal of the rejection and allowance of

Serial No. 10/021,016
Reply to Office Action of June 1, 2005

claim 1. Claim 2-9 depend from claim 1 and, for at least the same reasons, are not anticipated by Kapczynski et al.

Claims 10 and 21 are not anticipated by Kapczynski et al. for at least the same reasons that claim 1 is not anticipated by Kapczynski et al. Claims 11-16, and 18-20 depend from claim 10 and are not anticipated by Kapczynski et al. for at least the same reasons. Claims 22-26 and 29-32 depend from claim 21 and are also not anticipated by Kapczynski et al. for at least the same reasons.

In view of all of the above, the claims are now believed to be allowable and the case in condition for allowance which action is respectfully requested. Should the Examiner be of the opinion that a telephone conference would expedite the prosecution of this case, the Examiner is requested to contact Applicants' attorney at the telephone number listed below.

No fee is believed due for this submittal. However, any fee deficiency associated with this submittal may be charged to Deposit Account No. 50-1123.

Respectfully submitted,



Michael C. Martensen, No. 46,901
Hogan & Hartson LLP
One Tabor Center
1200 17th Street, Suite 1500
Denver, Colorado 80202
(719) 448-5910 Tel
(303) 899-7333 Fax

26 July, 2005